

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. Nos 596/2009, 597/2009 & 598/2009

Dated this the 12th day of November, 2010

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER
HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER

O.A. 596/09

- 1 M.G. Mercy
Telephone Supervisor,
Naval Telephone Exchange
Head Quarters Southern Naval Command
Cochin-4
- 2 M.K. Droupathy
Telephone Supervisor,
Naval Telephone Exchange
Head Quarters Southern Naval Command
Cochin-4
- 3 P.K.Muraleedharan
Telephone Supervisor,
Naval Telephone Exchange
Head Quarters Southern Naval Command
Cochin-4

Applicants

By Advocate Mr. S. Radhakrishnan

Vs

- 1 Union of India
represented by the Secretary
Ministry of Defence
Government of India
New Delhi.
- 2 The Chief of Naval Staff
Naval Head Quarters
R.K. Puram, New Delhi.

- 3 The Flag Officer Commanding in Chief
 Southern Naval Command
 Naval Base, Cochin-4

..Respondents

By Advocate Mr. M.V.S. Namputhiri for R 2 & 3
Advocate Mr. Sunil Jacob Jose, SCGSC for R-1

O. A. 597/2009

- 1 K.K. Girija
 Telephone Operator, Grade-I,
 Naval Telephone Exchange
 Head Quarters Southern Naval Command
 Cochin-4
- 2 Alias Varheese, Telephone Operator Grade-I,
 Naval Telephone Exchange
 Head Quarters Southern Naval Command
 Cochin-4
- 3 Ajitha Arunkumar
 Telephone Operator Grade-I,
 Naval Telephone Exchange
 Head Quarters Southern Naval Command
 Cochin-4
- 4 V.J. Nirmala
 Telephone Operator Grade-I,
 Naval Telephone Exchange
 Head Quarters Southern Naval Command
 Cochin-4
- 5 S.D. Dharmaja
 Telephone Operator Grade-I,
 Naval Telephone Exchange
 Head Quarters Southern Naval Command
 Cochin-4
- 6 T.K. Babu
 Telephone Operator Grade-I,
 Naval Telephone Exchange
 Head Quarters Southern Naval Command
 Cochin-4

7. Alice Mathew
Telephone Operator Grade-I,
Naval Telephone Exchange
Head Quarters Southern Naval Command
Cochin-4
8. Mary Thomas
Telephone Operator Grade-I,
Naval Telephone Exchange
Head Quarters Southern Naval Command
Cochin-4
9. Eliamma James
Telephone Operator Grade-I,
Naval Telephone Exchange
Head Quarters Southern Naval Command
Cochin-4

By Advocate Mr. S. Radhakrishnan

Vs

1. Union of India
represented by the Secretary
Ministry of Defence, Government of India
New Delhi.
2. The Chief of Naval Staff
Naval Head Quarters
R.K. Puram, New Delhi.
3. The Flag Officer Commanding in Chief
Southern Naval Command
Naval Base, Cochin-4

..Respondents

By Advocate Mr. Sunil Jacob Jose, SCGSC

O.A. 598/2009

1. Usha Mathews
Telephone Operator Grade-II,
Naval Telephone Exchange
Head Quarters Southern Naval Command
Cochin-4

2 Annie Joy
Telephone Operator Grade-II,
Naval Telephone Exchange
Head Quarters Southern Naval Command
Cochin-4

3 B.K. Shobhana
Telephone Operator Grade-II,
Naval Telephone Exchange
Head Quarters Southern Naval Command
Cochin-4

4 Usha Unnikrishnan
Telephone Operator Grade-II,
Naval Telephone Exchange
Head Quarters Southern Naval Command
Cochin-4

Applicants

By Advocate Mr. S. Radshakrishnan

Vs

1 Union of India
represented by the Secretary
Ministry of Defence
Government of India
New Delhi.

2 The Chief of Naval Staff
Naval Head Quarters
R.K. Puram, New Delhi.

3 The Flag Officer Commanding in Chief
Southern Naval Command
Naval Base, Cochin-4

..Respondents

Advocate Mr. Sunil Jacob Jose, SCGSC

The Applications having been heard on 1.11.2010 the Tribunal delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

As the facts in these three Applications are similar and the issue raised is the same, these Applications were heard together and disposed of by a common order.

2 For convenience, the facts in O.A. 596/2009 is discussed. The applicants are aggrieved by the malfeasance and non-feasance on the part of the respondents in not reckoning the regularised period of casual services rendered by them for the purpose of granting Time Bound Promotion.

3 The applicants were appointed as Telephone Operators Grade-II on casual basis in the Southern Naval Command on different dates, later all of them were regularised in service from the date of absorption. Aggrieved, they filed O.A. 2144/93 which was allowed based on the orders in identical cases. Pursuant to the above, the applicants were granted regular appointment w.e.f their initial appointment. On implementation of the ACP scheme the Headquarters Southern Naval Command issued order dated 17.11.2003 clarifying the date of regular service reckoned for purpose of promotion in terms of the relevant Recruitment Rules is only considered for grant of financial upgradation under the ACP Scheme. Aggrieved by the above, the applicants filed O.A. 996/2003 which was allowed (A-3). Pursuant to the above the applicants were granted 1st financial upgradation under the ACP Scheme taking into account the whole service w.e.f the date of their initial appointment. Later the ACP Scheme for Telephone Operators was

substituted by Time Bound One Promotion (TBOP for short). Orders were issued granting Time Bound Promotion to the applicants (A-5). As per the new TBOP scheme, Telephone Operator Grade-II was entitled for promotion to Grade-I on completion of 16 years of service and to Telephone Supervisor on completion of 26 years of service. The grievance of the applicants in all the three OAs is that while granting promotion on completion of 16/26 years of service, the period of initial engagement till the date of absorption was not taken into consideration. Therefore they have filed this O.A for a declaration that they are entitled to get promotion on completion of 16/26 years of service from the date of their initial engagement, as to Grade-I and Telephone Supervisor respectively.

4 The respondents in their reply contended that the ACP Scheme stipulates that only service is to be reckoned for granting financial upgradation under ACP. Generally the service rendered from the date of regular appointment on direct recruitment or absorption from casual service is considered for promotion and as such only regular service is accounted for ACP. They stated that though the service from the date of initial appointment has been taken into account for granting the benefit of ACP pursuant to court directive, the service from the date of absorption only is being considered for the purpose of promotion. It has been clearly stipulated in the order that the benefits granted to the Telephone Operators under ACP Scheme will be treated as withdrawn as both the schemes i.e the ACP and the Time Bound Promotion Schemes could not run concurrently as per DOPT orders. Accordingly, the financial upgradations which were already granted to the applicants under the ACP Scheme had been cancelled and promotions granted as

per the TBOP Scheme for the the service rendered from the date of absorption is considered for promotion. They contended that promotion is based on the seniority in the respective post and that the casual service rendered can be considered for service benefits including ACP except seniority. The TBOP Scheme provides for promotion to the hierarchial post and therefore the criteria followed for the normal promotion are to be strictly followed in the case of promotion under TBOP Scheme.

5 The applicants in O.A. 597/2009 and 598/2009 have stated identical facts and the respondents have filed similar reply statements as in O.A. 596/2009.

6 We have heard the learned counsel appearing on both sides and perused the pleadings.

7 The sole issue that comes up for consideration in these Applications is whether the applicants are entitled to count their service with effect from the initial dates of engagement for the purpose of grant of financial upgradation under the TBOP Scheme. Admittedly, pursuant to the orders of this Tribunal, in various cases cadres in SNC, Kochi, the period of initial engagement as casual labour/daily rated staff, etc have been ordered to be treated as regular service, since they worked continuously and were appointed against existing substantive vacancies. This was implemented by SNC and on further orders from this Tribunal, the initial period of engagement having been regularised, was permitted to be counted as regular service for the purpose of ACP. In these O.As it is seen that consequent on the introduction of financial

upgradation under the TBOP/BCR Scheme, the financial upgradation under the ACP Scheme was cancelled. On completion of 16/26 years of service, the applicants were granted financial upgradations under the TBOP Scheme, without reckoning the initial casual engagement as regular service though the same was counted for the purpose of financial upgradation under the ACP Scheme. Since both TBOP and ACP are schemes for financial upgradation on completion of a particular number of years of service and ACP Scheme was substituted by TBOP Scheme for Telephone Operators, what has been already permitted for ACP Scheme has to be extended for TBOP Scheme also, on the ground of the regularisation of the initial period of engagement by the respondents. Hence, the period being treated as regular service, counts for TBOP also which is again a Scheme for financial upgradation on completion of 16/26 years of service to safeguard against stagnation. Hence, the OAs succeed. Accordingly, we declare that the applicants are entitled to get the regularised casual service reckoned as qualifying service for promotion under the Time Bound Promotion Scheme. We direct the respondents to grant financial upgradation to the applicants under the TBOP Scheme from the date of their initial engagement, as has been done while granting financial upgradation under the ACP Scheme with all consequential benefits. The O.As are allowed. No costs.

Dated the 12th November, 2010

DR. K. B. SURESH
JUDICIAL MEMBER

K. NOORJEHAN
ADMINISTRATIVE MEMBER

Kmn